twenty years entitles a member upon retirement to a minimum pension and annuity of $200, the excess to be paid by the company.

The funds of the pension system are exempt from taxation and attachment and no assignment of any right in the fund is valid. The affairs of the pension system are subject to examination by the insurance commission and state actuary and any violations of law are required to be reported to the attorney general if the unlawful practices are not amended.

JOHN A. LAPP.

Primary Elections—Constitutional Law. The direct primary election law of Illinois which was enacted at a special session of the legislature in February, 1908, has been declared unconstitutional by the supreme court of that state (88 N. E. 821). This is the third direct primary law to be declared unconstitutional in that state in the last four years. The grounds of the decision are: first; that the law made no provision for registering voters who had become eligible to vote in a precinct after the registration for the general election and before the primary and, second; that the party committees were given power to determine the number of candidates to be nominated for the general assembly and restricted the voters at the primary to one vote for each candidate. The court held that the primary election is an election within the meaning of that term as used in the constitution and must be free and equal. The primary election law of 1908 by requiring voters at the primary to be registered and omitting to make provision for registry immediately preceding the election, deprive certain citizens, who have changed their residence, or become of age or have been naturalized since the general election, of their right to vote.

The second objection involved the constitutional provision for the cumulative vote. The law gave authority to the senatorial committee to determine how many candidates should be nominated for the general assembly and the voters were restricted to one vote for each candidate whereas at all elections according to the constitution, as many candidates must be named as there are places to be filled and the voters are permitted to cast a single vote for each or to cumulate their votes on one or two candidates. The primary election being held to be an election within the meaning of the constitution, it is obvious that any law which does not permit the cumulative vote is void. The supreme court in a previous decision (Rouse v. Thompson, 228 Ill. 522, 81 N.E. 1109), had attempted to point the way by saying that the senatorial committee

might "suggest to the voters of their respective parties the number of candidates that ought to be selected by their party at the primary election for representative in the general assembly and to have such suggestions placed in some form upon the official primary ballot for the guidance of the individual voter." If the parties had been compelled to nominate as many candidates as there were places to be filled the benefits of the cumulative system would be lost unless the votes could be concentrated upon one of the candidates. This would be unlikely if more than one candidate were in the field. The parties have therefore nominated as many candidates as they thought they could elect by cumulating their votes. The direct primary system does not lend itself readily to such an evasion of the constitution unless power is concentrated in some party committee. But it is not constitutional for such committees to do more than suggest the number of candidates and rely upon party loyalty to prevent the nomination of more candidates than the party can expect to elect by the cumulative vote. The grant of power to such committees in this respect was held wholly bad by the court. The voters must be permitted to vote at the primary election for as many candidates as there are offices to be filled and the three persons receiving the highest number of votes must have their names printed on the election ballots regardless of any resolution or suggestion of a committee. Party discipline must be relied upon to take some of the candidates out of the race or secure the cumulation of votes upon one or two of the candidates. The decisions of the court in the three cases involving primary election laws have given a fair outline upon which to base a constitutional law. Judge Carter in a concurring opinion, written because be believed the court should set forth its views on the direct primary in clear and explicit terms in order to aid the legislature said "After all the legislation and litigation on this subject, the legislative branch of the government should be told clearly and explicitly just what conditions must be met in order to draft a constitutional law governing legislative nominations by direct primary. If such a law cannot be drafted without rendering nugatory the constitutional provision for minority representation, as intimated in the majority opinion in this case, then in my judgment the court should state such fact in language that cannot be misunderstood."

There is a clear demand for the direct primary throughout the state. The present chaos of primary machinery is intolerable and a special session will probably be called to formulate a new primary law."

JOHN A. LAPP.